

State of Colorado



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Meeting Minutes July 15, 2008

The State Personnel Board met in public session on Tuesday, July 15, 2008, at the Colorado State Personnel Board, 633 17th Street, Suite 1400, Courtroom 1, Denver, Colorado 80202-3604.

The meeting was called to order at 9:00 a.m. Board members Roberto Corrada, Rich Djokic, and Robert Thompson were present in person.

Kristin F. Rozansky, Board Director; Assistant Attorney General Roxane Baca, Board Counsel; and Jane Sprague, Legal Assistant, were also present in person.

As a first matter of business, the members of the Board deferred holding an election for officers for this fiscal year until the August meeting.

I. REPORT OF RICH GONZALES, STATE PERSONNEL DIRECTOR (EXECUTIVE DIRECTOR, DEPARTMENT OF PERSONNEL AND ADMINISTRATION [DPA])

Mr. Gonzales reported that the total compensation letter to the legislature was being prepared for its August 1, 2008 submittal. In anticipation of its release, DPA is meeting with the representatives of the certified employee organizations: State Troopers, who have very specific ideas of what they want, and Colorado WINS, who is awaiting the outcome of the elections for two occupational groups. The question of whether this salary survey process involves bargaining versus discussion is ongoing.

With regard to pay for performance and performance evaluations, Mr. Gonzales reported that a committee of DPA supervisors and employees is looking at this area and making recommendations. David Kaye is chairing the committee, and the recommendations run the gamut from getting rid of the evaluation process to making it more complicated. DPA has seven other committees, also comprised of DPA supervisors and employees and chaired by DPA Division Directors. The focus is on implementing changes within DPA first and offering recommendations to the rest of the state for review.

As a "summer project," Mr. Gonzales stated that he is examining the Board Rules and Director's Administrative Procedures, and reviewing what is rule, policy, procedure or protocol in preparation for preparing a written document of his concerns with the Director's Administrative Procedures.

Mr. Gonzales also reported that during the summer, visits by DPA would be made to Durango and Grand Junction, followed by Sterling and La Junta.

Finally, Mr. Gonzales told the Board that Kaiser Permanente has made an agreement to return money to the state under its 501(c)(3) status because of a funding overage. To rectify this overage, Kaiser is reallocating its fund balance and returning money to its plan holders (one of whom is the State of Colorado). Under the agreement, Kaiser has stated that it will look at locating facilities in portions of the state in which it has previously not existed.

II. REQUESTS FOR RESIDENCY WAIVERS

Director Rozansky reported on one residency waiver request this month. The University of Northern Colorado has filed a new request for the position of Piano Technician, since the previous residency waiver request for this position has expired.

III. PENDING MATTERS

A. Retention Area Requests.

1. Department of Higher Education and Colorado Historical Society, State Personnel Board case number 2008D002.

Cindy Langan, Human Resources Director, Department of Higher Education (DHE), College Assist and College Invest, and Jim Davidson, Human Resources Director, Colorado Historical Society (CHS), were present at the meeting to answer questions regarding the above-referenced retention area request. Mr. Corrada posed several questions about how many employees each department had and why the two entities were put together in the first place. Ms. Langan and Mr. Davidson told the Board members that there were 4 positions at DHE, one of which is vacant, that were in a layoff status. CHS has 15 positions, and it is possible that the 3 from DHE would have rights to positions in CHS, pursuant to Board Rule 7-15.

Mr. Davidson stated that employees in DHE and CHS do not share the same mission or skill sets, and that they were probably initially put together in the same retention area to increase the scope of retention areas. He gave an example of 4 employees who previously came to CHS

from DHE who had a difficult transition, which was inefficient and time-consuming. Ms. Langan and Mr. Davidson assured the Board that DHE and CHS have communicated with all affected employees, via email and letter to their home addresses, on June 30, 2008. Although the layoff has not yet taken place, it is underway and a matrix has been published. After a statement from Ms. Langan that the intent of DHE and CHS to change the retention areas is on a go-forward basis, rather than for the current layoff, Mr. Djokic told her and Mr. Davidson that the Board would take the retention area request under advisement and consider it for future rulemaking.

IV. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES ON APPEAL TO THE STATE PERSONNEL BOARD

There were no Initial Decisions or Other Final Orders of the Administrative Law Judges on appeal to the Board this month.

V. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES TO GRANT OR DENY PETITIONS FOR HEARING

- A. Judy Wilday-O'Neill v. Department of Human Services, Colorado State Veterans Home at Fitzsimons, State Personnel Board case number 2008G065.

Mr. Corrada moved to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Mr. Thompson seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Corrada, Mr. Thompson and Mr. Djokic.

- B. Lee Burkholder v. Department of Human Services, Trinidad State Nursing Home, State Personnel Board case number 2008G071.

Mr. Thompson moved to adopt the Preliminary Recommendation of the Administrative Law Judge and grant the petition for hearing. Mr. Corrada seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Corrada, Mr. Thompson and Mr. Djokic.

- C. Kelly Smith v. Department of Corrections, State Personnel Board case number 2008G074.

Mr. Corrada moved to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Mr. Thompson seconded the motion. The motion passed on the affirmative

vote of the following Board members: Mr. Corrada, Mr. Thompson and Mr. Djokic.

VI. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES

There were no Initial Decisions or Other Final Orders of the Administrative Law Judges before the Board for review this month.

VII. REVIEW OF THE MINUTES FROM THE JUNE 17, 2008 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Mr. Thompson moved to approve the minutes of the June 17, 2008 meeting as submitted. Mr. Corrada seconded the motion. The motion passed on the affirmative vote of the following Board members: Mr. Corrada, Mr. Thompson, and Mr. Djokic.

VIII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS JUNE 17, 2008 PUBLIC MEETING:

- A. Retention Area Requests for Department of Higher Education and Colorado Historical Society, State Personnel Board case number 2008D002.

The Board voted to table the Department of Higher Education's request to separate the retention area of the DHE into one area containing the employees of the Colorado Historical Society and a second area containing the employees of the DHE's central staff and the Colorado College Access Network until the July 15, 2008 meeting. The Board's order stated that representatives of the DHE and CHS should be in attendance to respond to any questions from the Board including whether proper notice has been given to all affected employees, pursuant to Board Rule 7-17, 4 CCR 801.

- B. Nadine Roberts-Cornish v. Department of Public Health and Environment, Disease Control & Environmental Epidemiology, State Personnel Board case number 2008G060.

The Board adopted the Preliminary Recommendation of the Administrative Law Judge and granted the petition for hearing based on issues of unlawful discrimination on the basis of race or color and unlawful retaliation.

- C. Joshua Davis v. Department of Corrections, Division of Adult Parole and Community Corrections, State Personnel Board case number 2008G061.

The Board adopted the Preliminary Recommendation of the Administrative Law Judge and granted the petition for hearing on the issue of reviewing the factual basis for Complainant's termination for the purpose of determining whether Complainant's liberty interest in his employment has been harmed and whether his name should be cleared of that termination.

IX. REPORT OF DAVID KAYE, DIRECTOR OF THE DIVISION OF HUMAN RESOURCES (DHR), DPA

There was no report from the Division of Human Resources this month.

X. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Cases on Appeal to the Board and to Appellate Courts
- Website hits: March – 60,233; April – 55,616; May – 59,688

B. OTHER BOARD BUSINESS

- Staff Activities

In addition to the above, Director Rozansky reported that she is currently working on a 3-hour training for the Board scheduled immediately after its September 16, 2008 meeting. She was in the process of assessing how many Preliminary Recommendations and Initial Decisions would be on the September Agenda and would let the members know how long the meeting may last.

C. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

XI. PROPOSED LEGISLATION AND/OR RULEMAKING

XII. EXECUTIVE SESSION

- A. Case Status Report
- B. Minutes of the June 17, 2008 Executive Session
- C. Other Business

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APPROVED THIS 19th DAY OF AUGUST, 2008.

Rich Djokic, Acting Board Chair

Roberto Corrada, Member

Robert Thompson, Member